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ABSTRACT

Formed in 1971 to provide advocacy and representation for elected leaders of American Indian tribes that are recognized as eligible for services from the federal government, the National Tribal Chairmen's Association (NTCA) presents its position on five current issues pertaining to American Indians. The first paper is a statement in regard to conditions existing in American Indian communities as a result of the policies initiated by the Reagan Administration. Five position papers follow in regard to the Department of Interior and Bureau of Indian Affairs (BIA), Indian Country gaming issues, health issues, housing programs, and Indian education. Pertaining to education, NTCA is concerned about the eligibility for education trust services, the proposed Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations by the BIA, the future of BIA boarding schools, and the restructuring of education programs. Other concerns in education are Johnson O'Malley funds, early childhood education, administration of BIA Higher Education Scholarships, and the Impact Aid Act (P.L. 81-874). (ERB)

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NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

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"The State Of The American Indian Nations: 1983"

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A Report To:

President Ronald Reagan,

Members of Congress,

Partisan Political Parties,

Federal Bureaucrats, and

Citizens of the United States.

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From

The Elected Leadership Of The American Indian Tribes

June, 1983

(Note to Tribes, September, 1983: Although this paper and its' Positions contained herein were adopted by a meeting of NTCA in Albuquerque in early June of 1983, the Position Paper on Indian Health Issues, Section E, was subsequently withdrawn by the Board of Directors on August 30, 1983, at a meeting in Washington, D.C. because of actions being taken by the Indian Health Service were deemed to be detrimental to tribal interest and it was felt that the Department of Health and Human Services would interpret the Position Paper as being in favor of the Departments actions.)

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NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

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The National Tribal Chairmen's Association was formed in 1971 to provide advocacy and representation for the elected leaders of the American Indian Tribes which are recognized as eligible for services from the federal government.

Each of the leaders are elected democratically by their tribal constituents, and in turn, each of the Officers and members of the NTCA Board of Directors are elected by their peers to represent them in all national affairs.

The following list comprises the Officers of the organization and the members of the Board of Directors of the National Tribal Chairmens Association:

President	Phillip Martin	Chief, Mississippi Choctaw
Vice-President	Newton Lamar	President, Wichita Tribe
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Banning Taylor	Chairman, Los Coyotes Band of Mission Indians

B

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THE STATE OF THE AMERICAN INDIAN NATIONS:

June, 1983

It is fitting that at this mid-point of President Ronald Reagans administration of the affairs of the United States, that a statement by the American Indian Nations be forthcoming in regards to conditions as they exist now in American Indian communities and Indian Country, as a result of the policies initiated by the Administration.

In order that the general public, the non-Indian people of this United States can more easily understand why, in the first place, there is a special concern and a responsibility for the well-being of the Indian Nations which is greater than that which the United States has for any other class of citizen, it must be remembered that when the first Europeans landed on our shores they did not "discover" this land. The native Indians were in possession of this land and had made use of it for thousands of years in pursuit of LIFE, LIBERTY, and HAPPINESS.

Ever since the first European landing the Indian Tribes have constantly sought to protect their land and resource holdings from the foreign intrusion. They entered in good faith into Treaties which were designed to give them possession and protection in perpetuity of their beloved homelands. They entered into agreements giving up one portion of their lands for the promise to be relocated onto another location to be considered as their own. In those instances where negotiation failed the Europeans purpose, the Indians were forcefully removed from the white-desired lands and relocated to the most undesireable locations. For the Indian Nations the choices were simple: NEGOTIATE, RELOCATE, or the whites would EXTERMINATE.

In exchange for millions of acres of their lands and resources, the Indian Nations eventually accepted certain geographical areas of land which are now known as "reservations" or "Indian Country", which would be for their own use and purposes. Part of the benefits to the Indians were to include certain services, without time limitation, to be delivered to them by the government of the United States. In effect, the exchange of Indian lands and resources for tangible benefits are part of a legal commitment that is the basis for the relationship between the Indian Nations and the United States.

This commitment was recently reaffirmed by President Reagan who stated, "The Constitution (of the U.S.), treaties, laws, and court decisions have consistently recognized a unique political relationship between Indian tribes and the United States which this Administration pledges to uphold."

Over the years similar and like statements have been made by Presidents, lawmakers, and politicians. Yet the fact still remains that after more than one hundred years of federal patronage the Indian "reservations" and Indian Country remains largely undeveloped and without a meaningful degree of self-sufficiency.

Why is it then, in the midst of a country considered to be the wealthiest in the universe, and to be champion of those who are downtrodden, and to be the chief upholder of human civil rights, WHY is it that after a century of dealing with the United States via that "unique political relationship" which is recognized by all, that in this enlightened year of 1983 American Indians are still forced to make demands on the federal government for their fair share of federal assistance? WHY is it that the American Indians cannot trust the Administration to carry out the terms of their Trust Responsibility to tribes. And WHY must we still have to fight off those, including the federal government and the various States, who covet our natural resources?

Can it be that MORALITY, FAIRNESS, NATIONAL PRIDE, and JUSTICE FOR ALL are no longer a part of the American creed?

Many questions which are matters of deep and immediate concern to Indian people seem, to non-Indians to be too confusing to them, or too troubling to their conscience, or too irritating, to be seen in their true light or in terms of their general importance to the country at-large.

Among the most pressing questions for Indian concern are issues which affect the following subjects:

1. The federal Trust Responsibility for providing Resource Protection, Educational Opportunities, Social Services, Economic Development, Community Development, and Technical Assistance.

2. The Federal and State recognition of existing laws and the tribal sovereignty which is necessary to accomplish the protection of Indian hunting and fishing rights, treaty rights, land claims, water rights, and tribal jurisdiction over their own lands and within the boundaries of Indian Country.

However simple and short the above sentences of concern may appear, within the wording is contained a myriad of confusion and misunderstanding of the issues by the general public. Anyone new to Indian affairs would probably throw up their hands in despair upon reviewing the volumes of special Indian Law which governs the implementation of any one single issue.

A guaranteed roadblock to progress for any group of citizens would be a seemingly immovable mass of federal regulations or "red tape". Here again, the Indian tribes and their members are saddled with more than their share of negative government heavy-handedness. Besides being citizens of their own Indian Nations, Indians are also considered to be citizens of the various States where their Indian Country is located. Consequently in addition to the laws of the various States and Counties, Indians are also subject to over 5,000 additional laws and regulations which govern practically their daily lives. These are contained in the Code of Federal Regulations-Indians, and the United States Code Title 25.

We challenge anyone foolish enough to undertake the task, to meet the modern American standard for "progress" while operating under such inefficient and restrictive conditions. Indeed, FAILURE CAN BE GUARANTEED. Yet those who come into power with each new Administration resolutely seek to re-invent the wheel instead of allowing the Indian tribes to divest themselves of the stifling regulations and red tape.

President Reagan released his long-awaited Indian Policy statement in January of 1983. Within that Policy Statement he said, "development will be charted by the tribes, not the federal government.", and, "This Administration honors the commitment this nation made in 1970 and 1975 to....lessen federal control over tribal governmental affairs."

To the President we say, the time of reckoning is now upon us. If your Administration is sincere in its' statements of commitment we call upon you to personally meet with the Indian Tribes in their full assembly. There we would hear you confirm your commitments and then to personally order the federal agencies to commence removing the roadblocks to progress which the Indian Tribes and Nations would identify to you. For without the removal of those roadblocks, all of the fine rhetoric contained in the statements made by you and then delivered by remote control will deteriorate into pure hyperbole.

Our critics frequently point out that millions of dollars have been spent, and according to them "wasted", on Indian programs over the lo, many years. And they point to the present day Indian affairs budget of over a billion dollars as being a exorbitant amount to be spent on a handful of people. What is not explained to them is the fact that the federal bureaucracy itself uses up almost 70 percent of those funds for its' own perpetuation. 20 percent of the funds might actually reach the Indian people. These figures are approximate because each year an unspent amount of money, about 10 percent of the funds, is returned to the U.S. Treasury.

This annual practice amounts to a deliberate impoundment of Indian program dollars which directly violates the good intentions of the Congress. We can say with all due candor that the "trickle down theory" works very well in the federal Indian budget. While the federal faucet appears to be turned on, the trickle regulators (the federal agencies) ensure that only a small amount is actually made available to the Indian tribes.

Funds appropriated by the Congress for use by the Indian Tribes is further wasted by this fact: There are in the federal bureaucracy, aproximately 15,000 federal employees being paid out of the Indian budget. The latest U.S.census showed that there is over 1.4 million Indians living today. Of that amount approximately 750 thousand Indian people live in Indian Country, and are elegible for federal services. The shocking truth behind these figures is that there is ONE FEDERAL EMPLOYEE (in Indian affairs) FOR EVERY 50 INDIANS! Almost as shocking is the fact that there are now a total of 2 million 748 thousand employees now in the federal government. This works out to ONE FEDERAL EMPLOYEE FOR EVERY 71 NON-INDIAN CITIZEN. It is significant that in spite of the stated policy of the Administration no improvements have been made in this area of high cost.

It is fair to say that those 15,000 Indian affairs federal employees must depend on the continued non-development of Indian tribes, and for the tribes to stay in need of their services, in order for them to keep their jobs. Is there a correlation between the federal employees keeping their jobs and the Indian tribes' lack of funds for proper development? WE THINK SO!

If this Administration is serious about allowing the Indian Nations to have true Self-Determination, and given what the Indians see as base reasons for tribal non-development, we would expect an immediate response from the President by his ordering the following:

1. A transfer to TRIBAL GOVERNMENTS of the decision-making authority for Indian program guidelines.

2. A tranfer of Indian program funds away from the federal agencies via direct-funding to the TRIBAL GOVERNMENTS of the federally recognized Indian Nations.

The Indian TRIBAL GOVERNMENTS will no longer quietly accept the blame for the failures of the Administrations which from time-to-time happen to come into power. True Self-Determination will require the tribes to frequently raise their united voices to correct situations when necessary, and even to heap praise if it is deserved. The basic causal factors for tribal non-development, as mentioned above, have been aggravated most recently by the deliberate manipulation of those factors by the Administration which has produced what seems to be a HIDDEN AGENDA. We believe that the HIDDEN AGENDA is calculated to reduce the effectiveness of the Indian TRIBAL GOVERNMENTS in managing their own affairs in order to allow the corporate interests and the various States to acquire Indian-owned natural resources,including land and precious water.

Lest we be accused of paranoia, we can point to tangible evidence that moves are now afoot to terminate Indian property rights:

The American Farm Bureau Federation, The National Association of Counties, The National Council for Constitutional Equality, The InterState Congress on Equal Rights and Responsibilities, the States of Arizona and North Dakota, have all initiated Resolutions calling for either a serious curtailment of Indian tribal jurisdictions, or outright termination of the tribal federal recognition. Their common theme is that American Indians should be given their "fr edom" from federal domination and be given "rights" equal to that of other Americans.

Who then, can blame the Indian tribes for becoming suspicious of the Secretary of the Interior, James G. Watt, when he recently made public statements using this same rhetoric? Tribes view many of the Secretaries actions as in keeping with a terminationist policy.

The American Indian Nations want no more, or less, than what has been historically promised to them. They can say without contradiction that they have tried to take advantage of federal assistance for development when it has honestly been offered to them. Let us quickly review the most recent history:

During the period of from 1965 through 1980 the Indian tribes and the Alaskan Natives were offered the greatest opportunities in their history for community and social progress with federal assistance. Great strides were made in this short period and the future looked fairly bright.

During this period standards of living for individuals in Indian Country improved greatly. Many chronic health problems disappeared and the average life expectancy of Indians increased dramatically. Indians received a better basic education and many graduated from colleges and universities. Decent housing was replacing decrepit housing.

SUDDENLY! In early 1981 those opportunities began to disappear and progress came to a halt. Within two years, the delivery of services by federal agencies to Indians was in a shambles. The Bureau of Indian Affairs no longer was an advocate for tribal affairs. The Indian Health Service oversaw the destruction of critical health services and their IHS administrative offices were a mass of confusion. Other federal agencies which had provided the means for development are either now dismantled or is in the process of being dismantled.

In Indian Country, the statistics are mounting: UNEMPLOYMENT has reached unacceptable limits; SUICIDE and ALCOHOLISM is rampant; HUNGER and POVERTY is abounding; SERIOUS ILLNESS is almost epidemic; HEALTH CARE, even for emergencies and operations, is disappearing. This, in a country that professes to be HUMANITARIAN.

This Administration has seemingly turned a deaf ear to the problems created by it for the First Americans: The Indian People. The Administration has insulated itself from the pleas and petitions of the TRIBAL GOVERNMENTS. Yet the President delivers huge sums to foreign countries.

No amount of requests and patience has yet produced an acknowledgement that the President is cognizant of the plight of the Indian people. The Secretary of the Interior has consistently failed in his promises to the tribes, and he has consistently failed to include the elected tribal leadership in the decision-making process, and he has consistently refused to follow the Law in these critical matters.

Likewise, the Secretary of the Department of Health and Human Services has refused to listen to the requests of the elected leaders of the TRIBAL GOVERNMENTS in their efforts to classify the conditions which now exist within the Indian Health Service. These are conditions which the tribes characterize as CRITICAL, PRIORITY MATTERS. Few options remain for the tribes to attract the attention of this Administration and we sincerely urge President Reagan to listen now before splinter groups turn to the self-help options.

In the matter of Economic Development, we have this to say: Lands belonging to American Indians now total only 52,021,911 acres. Down from hundreds of millions. These lands are held "in Trust" for them by the United States and are not subject at this time to any form of alienation by seizure, sale, or otherwise. The development of these lands have been of great concern to many people, usually without regard for the wishes of the tribes. For those tribes who have been willing to commit their lands to development, various roadblocks continue to hamper them. Most tribes do not have capital of their own available for investment purposes, and for other tribes a lack of supporting infrastructure facilities such as roads, utilities, and housing, all combine to deter the attraction of private investors.

Even before the current economic recession set in, Indian Country was historically experiencing high unemployment. For those Indian tribes without natural resources for development, unemployment ran as high as 75 percent. The largest employer on those locations were the federal programs and the TRIBAL GOVERNMENT. Since the onset of the recession the figures for unemployment in those same locations now range up to 95 percent. Most locations are now experiencing high increases in social problems of all kinds. In short, all of those same social afflictions as exists in all other non-Indian communities are on the rise in Indian Country and is aggravated by the federal neglect.

The strategy of Reaganomics dictated that those most in need would be taken care of by a never-explained "safety net". Community problems would be taken care of by "volunteerism", and economic problems would be taken care of by attracting private industry. Early on, the Indian leaders pointed out that these prescriptions would not work in Indian Country, to no avail. No one would listen.

The Administration refused to recognize that conditions in Indian Country were not as they are in non-Indian rural areas. Other strategies were produced, again against Indians advice, such as the Enterprize Zone concept which is of no practical value at all to Indian Country. The best that the Administration has produced to date for Indian economic development, is the idea that the Bureau of Indian Affairs would establish two programs:

1. The Small Tribes Initiative. This program would make funds available for improvement of their tribal administration so they could better manage their own affairs.

2. The Tribal Economic Development Initiative. This would provide grants to tribes for seed money to attract private industry , or to develop tribal or individual economic enterprises.

As good as the programs appear on the surface, and as bright as the prospective to meet the needs, these concepts are a restructure of programs which were previously available using Public Law 93-638, The Indian Self-Determination and Education Assistance Act of 1975, BUT, with a major critical drawback: INSUFFICIENT FUNDS.

The Small Tribes Initiative was originally targetted for funds of 2.5 million dollars, and the Economic Development Initiative for 5 million dollars. Tribal cries of indignation and protest resulted in an increase to 5 million and 10 million dollars respectively. The so obvious flaw in the plans is that these funds will provide no real help. To further restrict the use of the funds a requirement was made to have the tribe applying for use of funds secure 75 percent of the project costs from either private lenders (banks or lending organizations) BEFORE the Bureau of Indian Affairs would provide up to 25 percent via the grant, with a ceiling on the amount of funds made available to any one project.

While these imposed conditions would probably not present a serious problem for a non-Indian local government it does present a major problem for tribal governments. For the same reasons that the Enterprize Zone concept could not work, this new plan faces problems. Private lenders have never been eager to invest in Indian projects,and, private industry requires more than mere tax break incentives to relocate into Indian Country.

For a real and lasting Program For Progress, a long-term commitment by the Administration for funding and technical assistance is a MUST. Short-term band-aid approaches will no longer be accepted by Indian tribes. The tribes must be given a greater opportunity over a longer period of time to accomplish their goals using the same resources (funds) which the BIA has squandered over the years. Why? To the Indian tribes the answer is a practical one.

The Bureau of Indian Affairs has historically had the lead role in the guidance and the development of Indian Country. Yet dollar for dollar they have accomplished much less than some federal agencies who have had a shorter life time, such as: The Economic Development Administration (EDA) in Commerce; The Administration for Native American Programs (ANA) in Health and Human Services.

The management of tribal resources have always been considered as a Trust responsibility. In recent years the BIA has increasingly been criticized and accused of the failure to properly manage those resources. Rather than improve their own performance the BIA has sought to redirect the criticism towards the tribal governments. Public statements were made that tribes were unable to manage their own affairs, that they were "unstable", and at the same time the tribes were told that they must become less dependent on the federal government. These statements were accompanied by deep funding cuts in Indian program budgets. The logic behind these actions is completely lost to the Indian tribes.

While the BIA leadership has seemingly succeeded in lowering the credibility of the tribal governments (if one was a private lender, would one lend money to a government that was classified as "unstable" by its' Trustee?), the Indian TRIBAL GOVERNMENTS are willing to accept the challenge to restore their own credibility if they are provided with the same tools and funding as has been wasted over the years by the Bureau of Indian Affairs.

The use of the phrase "the same tools and funding" in the previous paragraph will be very important to the tribes if they are to be able to efficiently manage in the direction of permanent, successful progress.

As mentioned before, the Indian Self-Determination Act was passed by Congress to be used as the primary means of improving tribal governments. However, regulations for the program, developed by the Bureau of Indian Affairs have proven to be highly detrimental to the liberal use of the Acts' provisions. Section 106.(h) of the Act is specific as to the amount of funding a tribe should receive if it elects to contract for the operation of any number of programs:

> (h) The amount of funds provided under the terms of contracts entered into pursuant to sections 102 and 103 shall not be less than the appropriate Secretary would have otherwise provided for his direct operation of the programs or portions thereof.....

The tribes believe that the requirement for equity in program operation dollars is, and has always been, abused by both the Secretaries of the Interior and the Department of Health and Human Services. It is a fallacy to think that tribal governments would be able to maintain or improve their social and economic infrastructure without proper funding, that is, at least at the same level as had been used by the BIA or the Indian Health Service.

BEST COPY AVAILABLE

The reduction of federal funds to the tribes has created an unmanageable situation for many tribal governments,and for this Administration to think that Indian tribal governments can operate an efficient program without the proper means is to put an impossible and intolerable burden onto those Indian tribes. The Indian tribes cannot stress too strongly that those federal agencies who contract with them using Public Law 93-638 must comply with the Law and provide the Indian tribes with equitable funds for both personnel and program implementation. To date, this has not been the case.

The Indian Nations are appreciative of the opportunity for employment which will be created by the roads construction and maintenance under the Federal Highway Trust Fund Act, and by the Jobs Bill of 1982. However, the concern is that regulations developed for implementation of these programs will again dilute the good intentions of Congress. Very important to reducing unemployment in Indian Country will be the ability of the tribes to effect provisions of Affirmative Action programs and Indian Preference in hiring. Federal laws and tribal ordinances governing these issues are already in place. Past actions by the federal agencies, and most recently, policy announcements by the Administration, give rise to doubts that Indian tribes will be allowed to hire many of their tribal members. The BIA and the IHS who are most concerned with Indian Preference hiring has in the past circumvented the requirements by in-house transfers and instituting exemptions to the policies by Reduction-In-Force methods. Complaints against these agency actions have gone unanswered.

During recent years many tribes have adopted Affirmative Action hiring plans for the benefit of their tribal members. Now it would appear that the Affirmative Action plans and quite possibly the special federal recognition of Indian Nations may be in jeopardy. President Reagan recently authorized a spokesman for the U.S. Justice Department to issue a public statement that the Administration will no longer support the use of special policies which give an advantage to one race of people over other races. William B. Reynolds, an assistant attorney general in the Justice Department and in charge of the Civil Rights Division, said:

> "If history has taught any lesson at all, it is that the use of race to justify treating individuals differently--whether they be black or white (or Indian?) can never be legitimate. Racial classifications are wrong--morally wrong--and ought not to be tolerated in any form or for any reason."

The Indian Nations must ask, "To what extent will this new policy be enforced?" Because benefits and opportunites that are available ONLY to Indians depends upon the continued federal recognition of TRIBAL GOVERNMENTS, the tribes must have an assurance from the Administration sufficient to allay their fear of a termination of that recognition, including federal services and benefits.

Such assurance must be given in such a way that there will be no doubt in the minds of the Indian Nations, bolstered by the new policies and actions by the federal agencies, that the Administration is still committed to that federal recognition of Indian tribes, and that all attendant benefits, programs, and services, will not be diminished further but will instead be increased to the full extent necessary to produce measurable progress.

President Reagan, in his Indian Policy declared:

> "A lingering threat of termination has no place in this Administrations policy of self-government for Indian tribes, and I ask Congress to again express its support of self-government."

This statement of itself is not enough to allay those Indian fears, especially when the Indian tribes review the Administrations actions which have affected the tribes during the past two and one-half years. It must be said that it is not the Congress that must express its support, for the Congress has time and again restored Indian program funding which the Administration proposed to cut severely or to terminate completely. What is needed quickly is POSITIVE ACTIONS by the Administration which would implement the positive rhetoric.

This Administration cannot point, with anything akin to PRIDE, to the conditions which have been re-created in Indian Country since January of 1981. While the tribes did not agree wholly with the recent public statements made by Secretary James Watt about Indian communities, or with the manner in which the statements were delivered, some of the descriptive language accurately described conditions as they exist NOW. Secretary Watt said, in part:

> "Indians living on government (sic) reservations experience overwhelming social problems, including unemployment, alcoholism, drug abuse, divorce, and.....social diseases."

There are two very repugnant principles indicated here:

1. The treatment of Indian tribes by the United States is graphically illustrated.

2. Until 1981 these problems were being effectively addressed.

3. The person making the charges has done little more than lip service to improve the situation although he has the means as well as the responsibility to make improvements.

What we are saying LOUD and CLEAR to the Administration is that pointing a finger of blame is not the method that the tribes prefer to improve problems in Indian Country. The tribes have advocated, and received promises for, direct and meaningful CONSULTATION before changes in federal programs and policies were made. Real consultation failed to materialize. Tribes have been promised twice, once by Secretary Watt and once by Assistant Secretary Smith, that a special Task Force would be set up to address unemployment and economic development strategies. The task forces have failed to materialize.

Now come President Reagan promising a Presidential Advisory Commission on Indian Reservation Economies to identify "obstacles to economic growth" and to "identify actions (that) tribal governments could take to rectify identified problems".

This contemporary effort to again re-invent the wheel only serves as further proof that no one in power within the Administration is listening to the Indian tribal leadership. WE HAVE ALREADY IDENTIFIED THE OBSTACLES AND PROBLEMS, AND THE SOLUTIONS!

From 1975 through 1982 several Indian organizations have submitted recommendations and strategies for Indian economic development. One of the most well-known of these was submitted by the congressionally established American Indian Policy Review Commission. In part their report said:

> "Indian opinion is virtually unanimous in the desire for economic self-sufficiency. Certainly not all tribes will be able to fully attain this goal, but with proper support from the Federal Government, many can. Clearly it lies within the best interests of the Indian tribes and the United States to give full support to the development of economic enterprises by the tribes."

This statement was then followed by four specific recommendations for action which if they had been performed to their fullest and then allowed to continue would have been of great value to all of us. The information being sought already exists and the Administration should now prove its' good intentions by giving the Indian tribes the full power and the means to implement their short and long-range development plans, which in most cases are already developed.

The Administration has presented some initiatives but the tribes see them as only symbolic gestures. While each may hold potential for success, if they are implemented in the usual bureaucratic manner, none will materialize effectively in providing long-term and lasting solutions to the problems of Indian tribes. Unfortunately, even now those initiatives are starting to receive the usual treatment.

Of the few initiatives presented by the Administration only one holds promise for early implementation: The Small Tribes Management Initiative, which will be folded into Regulations already developed for Public Law 93-638, § 272.12. The other initiatives including the seed-money Economic Development Initiative must all be printed in the Federal Register with an appropriate comment period before they can be implemented, if at all. Can the reader blame the Indian tribes for looking askance at the proposal presented by the Administration? For once again, the Indian tribes are being asked to "Trust me, I know what's best for you".

TRIBAL GOVERNMENTS throughout the whole of Indian Country truly do not know, after 2-1/2 years of patience, if this Administration is really interested in their welfare, or if the Administration really understands the unique Trust relationship which was established by the Constitution of this United States. For the Indian Nations, the time of reckoning is here and now.

The TRIBAL GOVERNMENTS are demanding that the President himself speak to them personally and in no uncertain terms enunciate what the REAL Indian Policy is, and then if he is serious in having his administration do all that can be done to alleviate the poverty and hardship which is now rampant in Indian Country, he will allow the Indian Nations to take matters in their own hands to make improvements in their own way.

As pointed out earlier, Indian Nations in good faith relied upon opportunities provided by previous Administrations only to have them removed, or forced to work with a change of rules before the programs could be implemented. Historically, the Indian Nations have had to play the "stepchild" role and was often forgotten in the heat of the political games played by Washington bureaucrats. So in spite of the good words and the good intentions, failed commitments have caused Indian tribes to still suffer from the poorest social and economic conditions of any group or race of people in the United States.

If the Administration is sincere in achieving a "favorable environment for the development of healthy reservation economies" it must immediately take steps to remove the barriers to healthy contact between the Tribal Leaders and the highest echelon of federal decision-makers.

The TRIBAL GOVERNMENTS demand an assurance from this Administration that their lands and resources are safe and will be diligently protected by their TRUSTEE from the grasp of the States, private utility companies, and the private corporations. Reforms must be immediately instituted in those federal agencies, such as the Interior Department, who have a responsibility to protect those resources. Given the present conditions and the federal activities the Indian tribes are rightfully fearful and unsure as to the real motives and intent of the Interior Department in regards to those precious resources.

If the Indian Nations are being led down a path which would lead to the eventual necessity of the sale or the loss of their resources to private entities or to the States, then it would be safe to assume that a termination of the unique Trust relationship would follow. This the Indian Nations know and realize fully. What they do not know, want and need to know is this:

DOES THE ADMINISTRATION REALIZE THE CONSEQUENCES OF ITS' ACTIONS? DOES IT EVEN CARE?

Until they hear from the President personally, they can only guess!

The Indian Nations call upon President Reagan to be the prime catalyst for new federal efforts, and not words, to remove the chains of POVERTY and NEGLECT from the shoulders of the American Indian Nations and to allow them to reach their full potential and strength through their own efforts assisted by the proper levels of federal help and funding.

It has been said before, Mr. President, that "Great men, like Great Nations, keep their word". Many before you have had the opportunity to attain that Greatness, and many have failed. Let not History record an unkind Truth in regards to your Administration.

In order that all who hear of, or read, this tribally-developed document would be properly informed the pages of Position Papers which are appendixed to this Statement will document the present true state of affairs within Indian Country and will outline the recommendations for improvement of conditions as developed by a gathering of tribal leadership on May 11th and 12th in Albuquerque, New Mexico. It is fair to say that the conditions as they now exist cannot be considered to be a mark of proud achievement for the United States.

The TRIBAL GOVERNMENTS of the American Indian Nations now await a prompt and decisive reply from the President of the United States.

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A Position Paper Adopted By The National Tribal Chairmen's Association On The Operations of The Department Of The Interiors' Bureau of Indian Affairs.

May 11,1983

From this time forward we strongly recommend that all persons, Indian Tribes, Indian organizations, federal agencies, and the Congress -- all who are involved in Indian affairs refrain from defining or describing Indian lands as "reservations". We believe that the term has been misused and brings to mind a negative connotation when used to describe our Indian communities.

We choose to be residents of INDIAN COUNTRY, not reservations. Indian Country has been aptly described in a positive manner and we will no longer tolerate our homelands being called a reservation.

EVALUATION OF THE PERFORMANCE OF THE SECRETARY OF THE INTERIOR AND THE ASSISTANT SECRETARY-INDIAN AFFAIRS IN CARRYING OUT THEIR CHARGE AS PRINCIPAL TRUSTEES FOR TRIBES.

It is the opinion of the majority of tribal governments that the two individuals who are charged with the responsibility of being the principal representatives of the United States in carrying out the Trust Responsibilities and the delivery of services to INDIAN COUNTRY have not acted in the best interest of the Indian tribes. During the past 2-1/2 years conditions in communities within Indian Country has deteriorated to the lowest levels in over a hundred years.

During the period of from 1965 through 1980 the Indian tribes and Alaskan Natives were offered the greatest opportunities for advancement by the use of new and helpful federal programs and services. During this period, the standards of living within Indian Country improved greatly.

In early 1981 the Bureau of Indian Affairs became an instrument for dismantling the federal assistance programs and BIA officials began advertising that Indian tribes were inept managers and that they were squandering federal dollars. In addition, the protection of valuable tribal resources ceased to be a priority, as did Indian Education.

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The Secretary and the Assistant Secretary-Indian Affairs, turned a deaf ear to tribal recommendations and tribal complaints in such issues as: CONSULTATION, PROPOSED BIA REORGANIZATION, THE CLOSURE OF SCHOOLS, AND NOW, THE REORGANIZATION OF FIELD EDUCATIONAL OFFICES. The general deemphasis of education as a Trust responsibility has also angered the tribes.

The Tribal Governments therefore hereby serve notice upon the President and his Administration that they will no longer tolerate their blatant disregard for the welfare of Indian Country. They are now willing to go to any lengths to impress upon the Administration that its' policies are working an unprecedented hardship upon the tribal members and irreparable harm will result if those destructive policies are not immediately reversed.

A great concern to Indian Country is the impending expiration of the protective Trust status for much of Indian lands. From time to time as necessary, the protective status was extended on such lands by the President. During the Eisenhower Administration the authority for extending the Trust was transferred to the Secretary of the Interior. Since that time every Secretary of Interior has routinely and without question extended that Trust. Actions and attitudes which have been publicly exhibited by the present Secretary of Interior has given rise to a serious mistrust of his motives and intentions towards Indian Country.

In December of 1983 the present existing protective status for much of Indian Country will expire and MANY now doubt that the Secretary will routinely extend that Trust. If the President is serious about the pronoucements of his Indian Policy and really believes in promoting progress for Indian Country, he will immediately and without delay see to it that the Secretary forthwith takes all necessary actions to extend that protective Trust status.

On October 28, 1981, a confidential memorandum was produced by the offices of the Interior Solicitor for in-house purposes which explained to the Secretary his options for action when a conflict of interest arose between the interest of Indians and the interest of the Nation or another Interior department. The existence of the memorandum was made known to the tribes and they requested to see this memorandum under the Freedom of Information Act. The request was refused. It was only with help from the Congress that we were finally able to review it. That memorandum is offensive to the Indian tribes and they consider it to be extremely detrimental to the interest of all tribes if it is used by the Secretary when handling tribal trust issues.

The Secretary must immediately repudiate that memorandum and take steps to assure the Indian tribes that he will faithfully and honestly take actions to protect the tribal interest in all cases, even in the event of a conflict of interest. As Trustee, he owes the tribes the highest priority in carrying out his fiduciary duties. He will not allow other interests to take precedence. <u>We insist that this be done quickly</u>.

The Indian tribes insist on being actively involved in making strategy for administrative changes and improvement, and for the re-design and re-structure of offices and departments within the Bureau of Indian Affairs. The efforts will be designed to produce efficiency and improve the delivery of services to Indian Country.

The Indian Tribes are of the opinion that the BIA Area Offices generally are of no real practical value and exist mostly to perpetuate the employment of the higher-grade personnel. Area Offices create an unneeded layer of bureaucracy and are roadblocks to efficiency. Tribes are heartily in favor of restructuring the BIA--but, in a manner which is not protective of unneeded, unproductive, and inefficient personnel. They are in favor of a restructuring process which reflects a sincere and honest effort to conserve funds which can then be used for service delivery priorities.

The tribes propose that they themselves will name and appoint a special TRIBAL COMMISSION FOR THE REDESIGNING AND THE RESTRUCTURING OF THE BIA which will, using already developed material, develop a strategy to streamline the entire operations of the BIA. Unwarranted actions and deliberate delays in carrying out congressional mandates, a refusal to carry out the intent of Congress, and unsatisfactory consultation with tribes in violation of existing federal laws, have all convinced the tribal governments that only THEY, the elected leadership of Indian Country, can successfully plan and implement a satisfactory and workable administrative change for the BIA. They will no longer submit to the heavy-handed disruption of Indian programs.

The Interior Department must make funds available to the TRIBAL COMMISSION which will enable the COMMISSION to carry out its' mission within a reasonable time. It is believed that with this assistance the COMMISSION can carry out its' mission within a few months of its' first meeting. If there be a question of where the funds would come from the tribes can easily suggest personnel changes which would provide more than enough funds.

Too, the tribes insist that the so-called "reorganization" of field Education Offices which is now underway be stopped immediately. Any other reorganization plan of other offices must be also stopped until the strategy is completed by the COMMISSION and ready for implementation according to tribal wishes.

The Indian tribes are of the opinion that the Secretary and the Assistant Secretary-Indian Affairs, have consistently violated federal laws which require adequate consultation with the tribes before certain department actions may be taken. We cite here two irrefutable instances of violation which the Interior Secretary must immediately agree to recognize and must agree to compliance with these laws:

> The Indian Reorganization Act requires that the Secretary consult with the tribes about the Indian portion of the federal budget BEFORE SUBMISSION TO THE CONGRESS.
>
> Public Law 95-561 is explicit in requiring consultation with parents and tribes BEFORE changes are made in Indian education policies or services.

Both of these congressional acts have been knowingly and willingly disregarded and violated by the Secretary and the Assistant Secretary-Indian Affairs repeatedly, in spite of being informed of their wrongdoing by tribes and the National Tribal Chairmen's Association. Because of the serious nature of the almost criminal acts, we now demand that the President, in affirmation of his Indian Policy, issue an immediate order to the Secretary to comply with the laws or he be made to face legal consequences from charges to be brought against him by the Department of Justice.

The Indian tribes are not pleased with the manner in which the Secretary has discharged his duties to protect Indian water rights. They perceive actions and policies made by the Secretary as leading towards the transfer of Indian water rights cases to the jurisdiction of State courts, rather than the federal courts where they rightfully belong. The tribes are of the strong opinion that the principles of President Reagans new "federalism" policy for the transfer of authorities to the States should not include any part of Indian rights, the adjudication of same, or the jurisdiction over any tribal matter. Nothing short of actual positive actions by the Secretary will have any effect on tribal thinking.

In regards to NEGOTIATION of tribal water problems with States, before any tribe would be asked to agree to negotiate, we will insist that the Interior Department be required to make a full disclosure to the tribe of any possible adverse consequence to the tribe if negotiation is entered into by the tribe. Too, any agreement to negotiate should contain escape clauses for the use of the tribe if at any time they have reason to become suspicious or alarmed.

During the past 2-1/2 years the tribes have seen the erosion of established protective regulations for their water rights and even the U.S. Supreme Court seems to have recently joined in the assault to acquire Indian water. That Court has decided recent cases "in the interest of finality" rather than on JUSTICE. The Indian tribes protest these kinds of miscarriage of Justice and demand that the President cause a review of those cases.

We have recently seen actions by the Secretary which encourages a division of opinion between Indian tribes and Indian organization. An example is the Secretaries involvement of the Council of Energy Resource Tribes (CERT) and

the Native American Rights Fund (NARF) in serious talks of water rights with non-Indian water users and refusing to invite the tribal leaders to participate. This is totally inexcusable and it was done in an arrogant manner which was obviously a slap in the face to the tribal leaders.

From this day forward we demand and insist that the elected leadership, the Tribal Governments, are the only entities with the legal authority to speak for their respective tribes. The Secretary will in tribal matters, deal only with them and no others. The Presidents Indian Policy is a mandate to the Secretary in this regard and we hold the Secretary fully responsible to implement that policy.

As a good-faith first step, we demand that the Secretary immediately schedule a conference for tribes to meet personally in full assembly with the Secretary to discuss his present attitudes and activities and to give him an opportunity to hear first-hand the tribal voices in regards to his performance in Indian affairs.

Finally, the Secretary must immediately issue a statement to the effect that he recognizes the authority of the 165 federally recognized tribes who now constitute the present membership of The National Tribal Chairmen's Association (NTCA) and their right to join together in association for mutual protection, cooperation, mutual support and assistance, and for their own purposes. They reserve the right to authorize representation on their behalf and they demand the recognition of that representative.

In regards to the issuance of President Reagans' long-awaited Indian Policy, the Indian tribes meeting in assembly have discussed said Policy and have unanimously agreed that the President Indian Policy is not beneficial to them. It has been publicly announced by Assistant Secretary Smith that he is responsible for the authoring of that Policy, so obviously it is not a product of the Presidents thinking or beliefs. The high sounding rhetoric contained in the Policy is not at all supported by the actions of the Administration during the two years previous to the Policy announcement.

The Indian tribes view the slashes in Indian services of all kinds as a cold-hearted disregard of domestic human policies while at the same time a touching concern for foreign human rights policies is expressed by the Administration. The President has allowed and encouraged the impersonal Office of Management and Budget to become involved in setting federal/Indian policy in terms of cold dollars and cents rather than in terms of human need.

Even if the President was serious about implementing his written policies, the Office of Management and Budget has provided no funds to carry out those policies.

NO, The Indian Nations cannot accept the Indian Policy as being based on good-faith and intentions. The budget cuts as ordered by President Reagan are tant-amount to a planned termination of federal services for Indian Nations and is therefore a planned termination of the federal recognition for the rights of Indian tribes. Budget cuts in certain health areas amounts to a DEATH SENTENCE for many Indian people and this is occurring now.

NO, the Tribal Governments, in carrying out their sworn duty to their tribal members cannot in all honesty and in good faith endorse or accept the present actions of this Administration.

The Tribal Governments in meeting assembled an Albuquerque, New Mexico, on May 11, 1983, approved the following PLAN FOR THE REDESIGNING AND THE RESTRUCTURING OF THE BUREAU OF INDIAN AFFAIRS. We urge the Department of Interior to seriously consider this plan and to allow the tribes to carry it out to their own satisfaction.

A. <u>The Problems in the Bureau of Indian Affairs</u>:

1. The biggest and most serious problem in the BIA is that it is like an inverted pyramid which is top heavy with funds, personnel, and a multitude of regulations and policies.

2. The BIA is a three-layered bureaucracy composed of the offices in Washington, D.C., and the 14 Area Offices located across the country and in several hundred Agency Offices located in Indian Country which results in conflicting, contradicting, and competing administrative jurisdictions and actions.

3. The BIA is, for the most part, a self-perpetuating agency, therefore its higher grade personnel and funding is dictated by in-house politicizing and biases instead of being Indian and tribally oriented to carry out the mission of the BIA.

4. The hierarchy of the BIA each year meets and cuts up the "financial pie" appropriated by Congress without an input or review by Indian tribes as required by the Indian Reorganization Act, Section 16.

5. The funds appropriated by the Congress goes to maintain the bureaucracy of the BIA rather than addressing the problems and issues at the local agency for the tribes. The American public is then misled by believing that the Indians are getting the money when this not the case at all.

6. Some Indian tribes have seen federal salaries continued to be paid even when there were no program or service funds available to carry out the mission of the BIA. This is an unconscionable practice that must not be allowed to continue. That is the lowest form of public welfare in the federal government system.

B. The Goals and Objectives of Redesigning and Restructuring.

1. The bureaucracy of the BIA must be addressed so that it is truly redesigned and restructured to be more responsive, efficient and effective in working with the federally recognized tribes for better program delivery.

2. The inverted pyramid must be reversed by removing the top-heavy bureaucratic personnel to reduce funds for administration, and to discard regulations and restrictive policies.

3. Once the BIA is redesigned and restructured there will definitely be some budget (financial) savings that must be passed on to the local agency so that the basic and priority needs of Indian tribes can be addressed and attacked. This is not possible under the present BIA organization plan. The perpetual changing of policies and regulations will not achieve the goals and objectives without the necessary change in the bureaucracy of the BIA.

As already stated, as long as the funds appropriated in the name of Indians are skimmed at the Washington offices and the Area Offices the local Agencies will never have sufficient funds for program and service needs.

For the past three decades each new Administration has discussed and attempted a "reorganization" of the BIA without much success. This is also true of the present Administration but the so-called reorganization is merely a reshuffle of personnel and with slight changes in policies so it is NOT reorganization, but a realignment. This is not what the Indian tribes need. They want a redesigned, restructured BIA, to meet their needs.

C. The Redesign and Restructure.

1. The present organization of the BIA requires an unnecessary huge expenditure of funds to support and maintain the bureaucracy of the BIA.

The need exists to REDUCE THE COST of maintaining that bureaucracy and channel more funds for programs and services to local Indian Agencies for use in Indian Country.

D. The Redesign.

1. Reduce at least one-half of the staff of the BIA in Washington, D.C. and restrict its' functions to budget matters and general policy matters of the BIA.

2. Reduce by one-half the Area Offices of the BIA and restricting their functions to technical assistance and housekeeping functions only so that they exercise no administrative functions over the local Agencies. The technical experts will vary from one Area Office to another because resources and general plans of tribal development will be different.

3. Provide that the local Agency Superintendent shall have discretionary authority and control of the funds provided to or appropriated for the local BIA Agency.

4. It would follow that when the BIA is redesigned and restructured as recommended herein that there would be funds available from financial savings. This would be made possible by a new policy directing that the Washington, D.C. BIA administrative staff be reduced as well as staff at the Area Office level. Those savings should be used to maintain Agency and tribal programs at a realistic and functional level.

E. The Benefits of Redesigning and Restructure.

1. The present BIA structure which calls for an Agency Branch to compliment every Washington Branch Chief, whether it is essentially needed or not, will be eliminated.

2. The present line-item functional appropriations, which result in waste for some functions through an over abundance of funds while other necessary functions are curtailed because of funding limitations will be abolished.

   The Superintendent of the local Agency, following local tribal approval, shall have authority to transfer funds from one function to another in his Agency budget depending on local needs and considerations. Following allocation of funds to an Agency there should be no authority for the unilateral removal of those funds by the Central or Area Offices.

3. Additional funds should also become available under the new plan which should result in available funds for contractual services for private professional services desired by Indian tribes which are subject to tribal leadership control. This will also enable tribes to communicate and work with the private sector toward tribal objectives.

4. This plan would get the government "off the back" of Indian tribes by greatly reducing the "red tape" and create an air of freedom for tribes to move ahead.

5. Before implementing a NEW redesigned BIA, all old regulations and policies should be destroyed so that the new regulations and policies ONLY serves to meet the needs of the NEW Bureau of Indian Affairs, a NEW BIA which we can all be proud of.

As long as the bureaucracy of the Bureau of Indian Affairs is allowed to remain intact in its' present structure, further promulgation of regulations and legislation will not address or attack the problems in Indian Country. Neither will the terms of the Administrations' new Indian Policy be able to address them.

Therefore, it behooves the Administration and the Congress to confront this matter and allow passage of legislation that will redesign and restructure the Bureau of Indian Affairs as recommended in this Paper. The Tribal Leadership stand ready to lead the way.

D

POSITION PAPER ON INDIAN COUNTRY GAMING

The National Tribal Chairmen's Association considers it important that this Statement be issued because of efforts by the various States and more recently the U.S. Department of Justice, to prevent the Indian Tribes from establishing Gaming enterprises on their own lands and within their own jurisdictions.

The President of the United States has recently issued his Indian Policy statement. Within this statement the present Administration declared its' unqualified support for sovereign and economic self-determination for the Indian tribes. The fostering and development of tribal enterprises and the enhancement of tribal self-government is stated as a paramount policy goal of the federal government.

Mutual respect with a government-to-government relationship would govern the inter-governmental affairs of the tribes in their relationship to the federal government.

If the Administration actually believes in their policy statement then why would the Department of Justice attempted to effectively put Indian Bingo operations out of business? This act was done without any prior consultation with anyone else, including the tribes.

A national Task Force was quickly selected by the Department of the Interior without prior consultation with the tribes and without their input as to the need for this Task Force or the selection process for membership of this Task Force.

It is the position of the National Tribal Chairmen's Association that only the tribes themselves can regulate gaming activities on their own lands. As an attribute of sovereignty, as with any sovereign government, it should be the tribes who have direct input into the promulgation of any laws governing these activities on Indian land.

We believe that no national concern would be necessary except for the assault on tribal sovereignty by local United States Attorneys through the misapplication of 18 U.S.C. (1955), and the threat of adverse legislation developed by the Department of Justice.

We therefore adopt the position that if the Bureau of Indian Affairs needs to be involved at all in Indian gaming concerns, then such involvement should be limited to the development of legislation to fully authorize the tribes to be completely self-regulating in the area of Indian Country Gaming, or to whatever involvement is requested of the BIA by an individual tribe.

The principle of self-determination is at stake here. We insist that the individual tribes have the right to develop any kind of economic development operation without the necessity of a Bureau of Indian Affairs Task Force being set up to oversee it.

We further insist that the BIA refrain from further Task Force involvement in tribal Bingo or other operations.

We strongly recommend and encourage those tribes who are involved in such activities to form their own INDIAN COUNTRY GAMING COMMISSION , which would negate any reason for the concern and the involvement of the Bureau of Indian Affairs.

This Position was adopted by Tribal Governments meeting in assembly in Albuquerque, New Mexico on May 11, 1983.

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NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

STATEMENT ON CRITICAL NATIONAL INDIAN HEALTH CONCERNS

The National Tribal Chairmen's Association (NTCA) and the American Indian tribes and Alaskan Natives want nothing more or less than those benefits promised them by the U.S. Government in exchange for their lands and resources. Among these benefits is the provision and conservation of health care which has been primarily provided through the Indian Health Service (IHS).

Every federal administration has provided IHS with too few dollars to even equal the previous year's level of health service, while costs for these services climb steadily upward. IHS is on the bottom rung of a multi-layered bureaucracy whose management and policy decisions on Indian care do not reflect any understanding of the constituency's real and unique health needs.

Existing health barriers such as chronic diseases, mental illness and alcohol abuse are escalating in Indian country aggravated by the cuts in federal program budgets which have caused the highest unemployment rate in recent years among Indian people. In some places it is now as high as 90%! Consequently, Indian people are still virtually at the bottom of all national health indicators with skyrocketing rates in accidents, suicides, homicides and neglect Twice as many 25 to 34 year old Indians die from diabetes as non-Indian people. Among Navajo people average life span is 42.4 years compared with 65.1 years for the U.S. non-Indian population. Indian individuals die from cirrhosis of the liver 14.5 times as often as the 4.2 death rate for non-Indian citizens from ages 25 to 34 years. With no tax base in most Indian country communities, there exists no private sector to balance health care funding now being withdrawn by the federal government. States who are being asked to take over health services for Indians are refusing because their budgets are too small and because they feel it is a federal

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responsibility. The results are rising unnecessary death rates and an ever tightening spiral of pressure on tribes and the IHS health system causing: loss of tribal interest in taking over underfunded and shrinking health systems; escaping health providers who are burned out, with no job security who have had to compromise quality patient care; threatened closure of needed health facilities and loss of vital preventative health/home care providers; exhaustion of medical supplies and curtailment of emergency hospital services halfway through the year.

Currently the IHS is being mandated by the Administration to redesign its programs for short-term savings without a realistic look at the long-term picture in Indian health care. This short-sighted approach must be stopped and replaced by a strategy which truly is designed to meet Indian health needs.

NTCA recommends that the following issues be addressed immediately by American Indian /Alaskan Native (AI/AN) Nations, the Administration and Congress:

Statutory Elevation of the IHS within the Department of Health and Human Services

NTCA insists that the Secretary of Health and Human Services elevate the position of the IHS Director to that of Assistant Secretary within the Department. Such action would provide IHS with the decision making power it desperately needs to justify and defend its budgetary, staffing and Indian health program needs before the administration and Congress.

Eligibility for IHS Service

NTCA recognizes the necessity for a comprehensive review of eligibility requirements for IHS services. A rapidly increasing service population, reductions in appropriations, inflation and reduced access to Medicaid and Medicare services have all contributed to a reduction of IHS/Tribal health delivery capabilities. Also, Congressional definitions of Indian for purposes of eligibility have been grossly inconsistent complicated by the lack of definitive standardized interpretations of eligibility requirements by the IHS Central Office.

NTCA, in concurrence with the findings of the IHS Contract Health Task Force, recommends the following:

1. That the eligible population for IHS supported services be clearly defined as only those Indians (a) who are members of federally recognized tribes; (b) who live in a clearly defined IHS/tribal service area; and, (c) who formally enroll for IHS services.

2. That the federally recognized tribes themselves determine who their members and eligible IHS service populations are.

NTCA adamantly opposes the administration's recommendation that IHS define its service population for Indian people based on a one quarter (¼) degree blood quantum, as recommended by the President's Private Sector Study on Cost Control. We suggest that the use of blood quantum would present a considerable administrative problem of verification due to inevitable differences between tribally-set membership criteria and IHS service eligibility blood quantum level requirements.

NTCA therefore takes the position that each tribe separately should be responsible for determining whether or not to use blood quantum as a determinant of eligibility for direct and/or contract health care. It is also NTCA's position that uniform eligibility requirements for direct and contract health care are absolutely necessary in combination with an enrollment system, to eliminate the inappropriate distinction between service populations.

NTCA Indian Health Advisory Council

It is the position of NTCA that IHS should recognize the authority of the tribal governments and their authorized representative, NTCA, and provide this organization with a contract to perform the duties of a Tribal Health Advisory Council which would include liaison and all other activities usually performed by IHS area health boards. This would give IHS a greatly needed method of consultation with tribally authorized health advocates on major policy, budgetary and programmatic issues, and would provide the tribal liaison no longer made available by IHS under its poposed discontinuation of grants for tribal health advisory boards and health communications networks. NTCA already has an ad hoc Health Advisory Committee in place consisting of tribal health experts to act as the core body of such Tribal Health Advisory Council.

FY'83 IHS Funding Shortfall

While IHS awaits congressional decision on its $19,359 million requested FY'83 supplemental funding, it still needs an additional $37 million for this fiscal year if facilities are to remain open and critically needed services are to continue. Examples of the severity of need abound throughout Indian country. The Albuquerque Service Unit has already exhausted all contract care dollars and cannot treat any hospital emergencies except obstetrics. No new end-stage renal dialysis patients can be funded in the Phoenix area and those currently being served are threatened with loss of services if the Area Office must implement its cost containment policy set early this year.

It is NTCA's position that nothing short of a full $57 million supplemental appropriation to IHS by Congress will suffice. Otherwise, the very foundation of many IHS/tribal health programs will crumble. This supplemental must become part of the recurring base allocated for FY'84 to avoid another critical shortfall and need to lay off or terminate even more IHS professional staff at the beginning of that fiscal year, only four short months away.

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As a direct result of the FY'83 IHS funding shortfall, Lawton Public Health Service Hospital is threatened with closure by mid-August. Hospital supplies are now about depleted with a severe cutback in provision of high-cost prescriptions and over-the-counter medicines. The seven tribes served by that facility have requested relief through the following three measures: 1) that the Oklahoma City IHS Area Office be authorized to temporarily reprogram funds currently held frozen by the Department of Health and Human Services' mandated personnel hiring freeze, to purchase urgently needed supplies for Lawton Hospital; 2) that the Oklahoma City IHS Area Office be granted temporary authority to furlough employees for not more than twenty-two (22) days per employee, as necessary, to immediately avoid the end-of-year funding shortfall; and, 3) that Congress provide a supplemental appropriation of $450,000 earmarked for the Lawton Service Unit to cover unmet health needs of its service communities within FY'83.

NTCA fully supports the request of these seven affected tribes and insists that the Department of Health and Human Services and the IHS immediately and positively act upon it in consultation with these tribes.

Urban and Rural Indian Health Care

NTCA takes special note of P.L. 94-437, Title V and the subsequent amendments of Title V addressed in P.L. 96-537. These acts clearly establish three distinct categories of Indians (federal recognized tribes, urban Indians and rural Indians) and provides for separate funding for each group.

NTCA fully supports the federal responsibility and continued funding for the health care of federally recognized tribal members wherever they may reside away from Indian country. Such funding must be adequate to meet need, but must not be taken from the amounts required to provide proper health care in Indian country itself.

Charges to Indian Individuals and Third Party Reimbursements

The Office of Management and Budget has recommended to the Department of Health and Human Services that IHS plan to supplement its funds by charging Indian individuals and actively collecting third party reimbursements (Medicaid/Medicare, federal employee, liability and other private health insurance). IHS plans to collect some $67 million in FY'84 from third party sources. IHS does not have the staff or know-how to manage such collections, if they can indeed obtain them. Its authority to make these collections rests with P.L. 94-437, Title IV, the Indian Health Care Improvement Act, expiring at the end of FY'84.

NTCA endorses the reauthorization of P.L. 94-437 with its Title IV amended to assure that third party collections are retained by the collecting Indian health facility to supplement, not supplant needed health services.

Indian Health Manpower

NTCA strongly supports the reauthorization of P.L. 94-437, the Indian Health Care Improvement Act, Title I, and its 1980 amendments. We recommend the following changes to the Act: 1) expansion of Section 103 (preparatory and pre-graduate programs) to include scholarships in pre-nursing, pre-medical technology and pre-physical therapy; 2) limitation in Section 104 of health professional scholarships to Indian students only; and, 3) inclusion in the Section 105 extern program of Section 103 scholarship recipients.

It is also NTCA's position that the other federal programs which provide health professionals to IHS (Health Careers Opportunity Program and National Health Service Corp.) must maintain their current contributions to IHS and must not be phased down or redirect their funds to other areas. Otherwise, IHS and tribes will have virtually no health professional pool to draw from by the year 1987.

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INDIAN EDUCATION POSITION STATEMENT

The National Tribal Chairmen's Association (NTCA) perceives the following items to be of paramount concern in the area of Indian education:

President's Indian Policy Statement

NTCA repudiates President Reagan's January 24, 1983 Indian Policy Statement where he states that the federal trust responsibility is limited to the physical and financial resources of the tribes.

The administration's budget directive for FY'85 detailed in Secretary Watt's April 5, 1983 Memorandum underscores the intent of President Reagan's arbitrary and wrongful limitation of the trust responsibility. This intent, according to the 3/24/83 Budget and Policy Guidance paper accompanying the memo is to:

- transfer all Alaska day schools to the state;
- close Concho, Intermountain and Mt. Edgecumbe Schools;
- transfer the operation of SIPI to a non-federal institution; and
- consolidate/closure of some Navajo boarding schools

NTCA asserts that the federal government has an enduring trust responsibility toward education as well as for medical and social services to the tribes. This trust responsibility has been repeatedly affirmed by the U.S. Congress in numerous Public Laws. The BIA's FY'84 and '85 education budget must reflect the federal government's education trust responsibility to the tribes.

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Eligibility for Education Trust Services

NTCA asserts that the trust responsibility toward education extends only to the federally recognized tribes and the individuals who meet tribally determined criteria for membership. The authority to determine who is an Indian for purposes of tribal membership and eligibility is an inherent and sovereign right of the tribes and may not be usurped by any state, organization or any level of government. This principal has been reaffirmed by the Supreme Court in the Martinez decision.

Such usurpation of tribal sovereign authority has occurred and continues to occur when federal Indian education dollars are expended for state recognized Indians, self-identified Indians and other non-federally recognized Indians. These persons can become eligible for federal Indian education funds when their tribes have become recognized through the federal acknowledgement process [25 CFR Part 83; 5 USC 301]. Such acknowledgement will mean that the tribe is entitled to all other immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes.

NTCA recommends increased funding for the federal acknowledgement process.

NTCA demands that the federal government and its agencies and the states immediately cease their usurpation of tribal sovereign authority to determine who is an Indian for purposes of tribal membership and eligibility for trust education services.

The federally recognized tribes must receive first priority in their educational rights and requirements and funding must reflect those rights as a first priority.

NTCA requests that the GAO conduct an investigation of the total dollars expended in the past 10 years by the Department of Education, Department of Health and Human Services (ANA), Department of Labor, Department of Commerce and all other agencies to non-federally-recognized Indians.

BIA Proposed Minimum Academic Standards

NTCA in it's role as defender/protector of Indian treaty rights and human rights of all members of the Indian Nations serves notice that the proposed Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations are categorically rejected as unfeasible, unrealistic, unworkable, inconsistent and violative of the BIA Mission Statement and 27 Education Policies that are already in force and that have the full effect of the law.

Especially unacceptable is Subpart G 36.61 which states "the Assistant Secretary may reject a request for a waiver and/or the revised standards and such rejection shall be final and unreviewable." Tribal education

codes and standards are within the scope of tribal sovereign and inherent powers.

There is no guarantee that any funds will be available to meet these proposed published requirements. We perceive these proposed standards are only a thinly-veiled process for eliminating boarding schools, dormitories and contract schools.

NTCA offers to assist in writing new rules for improved standards to be consistent with BIA's Education Mission Statement [25 CFR Part 32.3] and Policies [25 CFR Part 32.4]. In addition, BIA must provide funds in FY'84 and '85 budgets for tribes to develop their own education codes, policies and standards.

Future of BIA Boarding Schools

NTCA strongly objects to the closure of any and all federal Indian boarding schools until all Indian children have adequate replacement education activities and youth care homes constructed in Indian country. All testimony from tribes to date is 100% against school closures. The FY'85 BIA school construction budget must reflect the total amount of money needed to replace the federal off-reservation boarding schools in Indian country. The post-secondary schools, Haskell, the Southwest Indian Polytechnic Institute and the Institute of American Indian Arts which serve all of Indian country must remain open and fully funded in perpetuity.

Restructuring of Education Programs

The Reagan administration policies and budget cuts threatens to destroy gains made by the tribes over the past ten years. The BIA is currently "realigning" and "restructuring" area education offices and is withdrawing financial resources without the required prior consultation with the affected Indian tribes and is in defiance of the Congressional mandate to put a hold on any reorganization effort.

NTCA requests that the Congress investigate the above violations and cause Secretary Watt to cease all reorganization efforts, RIFs and the withdrawing of financial resources to the tribes.

Additionally, NTCA requests education oversight field hearings in locations on or near Indian country to be held by Congressman Yates and the Senate Select Committee on Indian Affairs.

Johnson O'Malley Funds

The present administration policy concerning the Johnson O'Malley Act of 1934 is in direct opposition to the Indian tribes position toward providing maximum educational services for Indian children. The

present distribution formula is definitely not equitable, since many states differ in the funding levels for state aid programs, thus we must be very careful in choosing the best formula to be used in distribution of funds for Indian students. The precedent established in 1979, whereby each Alaskan village corporation was determined to be an eligible tribal entity (one tribe, one vote rule), in establishing the voting requirement, is totally unacceptable and must be rescinded. Part 273.3 of the existing regulations must be revised in order to become more efficient and equitable in nature. This can be accomplished by simply dividing the total number of students into the annual appropriations and allocating these funds on a per capita basis.

The newly proposed 93-638 regulations failed to include JOM Basic Operational Support, because funds have only been requested for supplemental programs and tuition payments, due to the fact that appropriation language has restricted funding to these two programs.

We are strongly in opposition to the attempt to eliminate Basic Operational Support.

The JOM allocations should be increased to a level which would allow schools to keep pace with the increasing numbers of students. The JOM program is an extremely vital part of the educational services available to Indian children attending public schools in Indian country.

Early Childhood Education

As stated in 25 CFR Part 32.2 Mission Statement, "the mission of the Bureau of Indian Affairs, OIEP, is to provide quality education opportunities from early childhood through life in accordance with the tribe's needs for cultural and economic well being in keeping with the wide diversity of Indian tribes and Alaskan Native villages as distinct cultural and governmental entities." Without consultation with Indian tribes, the BIA has arbitrarily and unilaterally eliminated early childhood education programs. NTCA demands that an early childhood budgetary line item be restored to the BIA's FY'84 budget and added in the FY'85 budget.

BIA Higher Education Scholarships

The current administration policy for higher education for Indian students is in opposition to the real priorities and rights of the tribes. The BIA Central Office has recently been instructed by OMB to develop a loan program for higher education.

NTCA asserts that the BIA is acting illegally when it attempts to thwart the intent of the U.S. Congress in its appropriation of trust monies to the BIA for the benefit of higher education students as grants in aid and not as loans.

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The BIA has a special trust responsibility to provide full higher education grants to students to continue their education and training beyond high school for the purposes of developing leadership, promoting self-determination and increasing employment opportunities in professional and vocational fields.

Impact Aid - P.L. 81-874

The Impact Act has been one of the major ways the federal government has partially met it's treaty and trust obligations to Indian tribes. NTCA opposes and rejects the Reagan administration's attempt to cut or otherwise limit Impact Aid funds that affect 93,981 Indian students from 722 districts in 24 states.

NTCA requests that the Congress challenge the U.S. Department of Education's wrongful granting of authority to the states to "equalize" and count Impact Aid as a state contribution or share of the total budget for public schools in Indian country, which action severely reduces the amount of dollars available. The U.S. Department of Education must be required to cease this breach of the trust responsibility to the federally recognized tribes.

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NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

STATEMENT IN SUPPORT OF

THE UDALL/COCHRAN "INDIAN HOUSING ACT OF 1983"

The National Tribal Chairmen's Association wants nothing more or less than reasonable and affordable housing opportunities on a continuing basis for American Indian/Alaskan Native (AI/AN) communities. And, we will settle for nothing less.

Housing is a necessary component for the survival and wellbeing of AI/AN people along with health and education and must be treated with the same intensity of concern. It is well documented that Indians and Alaskan Natives have the worst housing conditions of any group in the nation. The most recent Bureau of Indian Affairs housing inventory (Consolidated Inventory figures, FY'82) shows that of the 149,166 existing Indian homes, 59,161 are in substandard condition with 31,947 of these needing major renovation to bring them up to standard and 27,214 need complete replacement. A total of 57,776 new houses are needed in Indian Country. Approximately 90,000 Indian families are in need of some type of housing assistance while 30,562 Indian and Alaskan Native families are homeless, most of whom are too poor or from too small a tribe to benefit from any program but the Bureau of Indian Affairs Housing Improvement Program. Of the tribes most in need of new houses, the small Rancherias of California need 10,000 new homes, Navajo Nation needs 9,000, Eastern Oklahoma tribes need 8,000 and Juneau area Alaskan villages need 6,000.

In addition to the severe need for adequate housing are the unique social, economic and legal factors affecting Indian people that require original solutions to housing problems. These factors include:

1. The federally protected trust status of Indian land which prohibits its alienation, encumbrance, or taxation.

2. The cultural, legal and geographical diversity of the various Indian tribes.

3. The lack of a stable economy and the high incidence of poverty among Indian and Alaskan Native peoples.

4. The multiplicity of federal agencies presently involved in the delivery of Indian housing.

5. The security risk presented by Indian land status which makes private mortgage financing and mortgage insurance programs unavailable to Indians regardless of income.

6. The refusal of Indian people to jeopardize the trust status of their lands, and the importance of the Indian land base to the economic, cultural and political survival of the Indian tribe.

For the last three years, a debate has continued as to the means and method of providing such affordable housing. We believe, after careful analysis, that the Udall/Cochran bill (H.R. 1928 and S. 856) offers a sound and workable framework within which tribal members can obtain reasonable and affordable homes in Indian Country.

The NTCA analyzed the Administration's Indian housing proposal (S.644) and the proposed Senate Banking Committee amendments thereto. We have rejected both as unworkable for meeting Indian housing needs. These proposals, based on Federal Housing Administration financing, would constitute a reduced federal commitment to Indian housing and, in our opinion, would result in a program that in fact may not produce housing in meaningful numbers for Indian/Alaskan Native people. The Administration's proposals would provide a block grant for Indian housing. Contrary to Administration hyperbole, block grants do not allow "greater flexibility" in meeting local Indian housing needs. Tribes would most likely have to use the funds to meet community development or other housing backlog needs resulting from budget and program cutbacks in these and related areas. Lower housing production would result from a reduced funding available through a block grant alternative to the long-term subsidy program.. This reduced production would have an inflationary impact on housing costs. Block grants would penalize low-income Indian families having the greatest need for new subsidized housing units. Further, FHA has never been a major lending or insurance source in Indian Country and it is doubtful it will become so, not only because of low incomes of Indian Country residents, but also because of the trust status of the lands.

A continuation of the current HUD public Indian housing program appears unlikely and may indeed have seen its last days. It is also likely that the Congress will not reauthorize the current HUD public housing program of which Indian housing is a small part. The Administration is adamantly opposed to it because of its increasingly high cost and cumbersome multi-agency and congressional committee involvement. If a compromise housing bill is passed by both houses and signed by the President (H.R. 1 as amended, conferenced with the Senate Banking Committee's substitute for S. 644), tribes will be faced with unaffordable housing.

The Udall/Cochran bill (H.R. 1928, S. 856) provides a comprehensive longterm housing program for AI/NA people. Its enactment would open housing opportunities to families irrespective of income and would expend public money with a measurable return on the investment made. From the tribal management standpoint the housing programs under this Act would greatly enhance the ability of each tribal government to develop housing that meets the unique needs and desires of its own community in Indian Country. The bill provides an incentive to rehabilitate existing Indian houses which can economically be brought into standard condition rather than build more expensive new homes where unnecessary. Contrary to the Indian housing bills mentioned above, this bill was drafted and revised with direct imput from tribes. It involves fewer Congressional committees and agencies than do the other bills.

The National Tribal Chairmen's Association offers the following recommendations for Federal Agency and Congressional initiatives and for clarifying amendments to the Udall/Cochran bill:

1. That Housing and Urban Development (HUD) immediately fulfill its commitment to Congress to transfer the full $18 million required by the Indian Health Service to install water/sewer systems for the 2,179 Indian homes constructed beginning in 1982. HUD has only transferred $5 million of the required $18 million. Without water/sewer systems these needed Indian homes stand unnecessarily unoccupied causing Indian families once again to bear the cost of governmental delays.

2. That HUD make good its agreement that it will <u>not</u> obtain the above water/sewer funding by reducing funds of other HUD Indian programs.

3. That the House Interior and Insular Affairs Committee and the Senate Select Committee on Indian Affairs include in their report language on H.R 1928 and S. 856 the following recommended changes:

   a. Specific language in Sec. 205 clarifying that the penalties of this section apply only to Indian housing contracts under

this bill and do not apply to the old HUD program contracts still operating in tribal communities.

b. Inclusion in the definitions section of the bill clear definitions of the terms: "trust funds", "individual" and "tribal" "unobligated trust funds."

c. On page 8, line 24, after the word "State", add "or Tribal" law.

4. That the Bureau of Indian Affairs administrative staff, responsible for Indian housing confirm their attendance at the National American Indian Housing Council's annual meeting in Washington, DC from June 12-15, 1983; and that:

a. The Bureau provide to all participants a written report on its specific plans to implement the H.R. 1928 Indian Housing Act programs through that agency; and,

b. That the Bureau of Indian Affairs clarify in oral presentation and in a written report, its agency staffing plan (including number of staff needed and cost for such) to administer the program; and,

c. That the Bureau staff provide a written transition period strategy and staffing plan for initiating this program.